

REGAL AUTO WORKS, INC., PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND AUGUSTA HERNANDEZ, RESPONDENTS.

G.R. No. L-29455. September 30, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

The plain and explicit language of Section 45 of Workmen's Compensation Act[1] and a host of authoritative pronouncements by this Tribunal interpreting such provision renders easy the disposition of this certiorari proceeding for the review of a decision of May 15, 1968 of respondent Workmen's Compensation Commission. The facts as found both in the decision of the Acting Referee Rodolfo M. Santos, as well as that of the Workmen's Compensation Commission affirming the same, show unmistakably that the controversion was filed beyond the statutory period. It would follow, therefore, that petitioner Regal Auto Works, Inc. has no legal basis for the reversal of the award against it in favor of the then claimant, the late Florencia Hernandez Francisco.[2]

The decision of the Acting Referee Rodolfo M. Santos had the following statement of facts: "Records show that the deceased died on October 5, 1964. Death being an injury within the meaning of Section 39(c), the same should be reported and the Employer's Report of Accident or Sickness filed within the period expressed under Section 45 of the Act, as amended, or 14 days from such death. To this requirement of law, the respondent failed to comply and such non-compliance is fatal. It was only on February 3, 1965 that the respondent expressed its controversion when through its counsel it filed its answer definitely, beyond the 14th day period above-mentioned." [3] Thereafter, when respondent Workmen's Compensation Commission itself, through its then Chairman Cesareo Perez, affirmed such decision, it was stated: "What respondent objected to vehemently is the Acting Referee's contention that, by virtue of the former's late controversion of claimant's right to compensation, it becomes unnecessary to resolve the material issues of the claim. Records reveal that as early as July 28, 1964, deceased Bernardo Francisco had been out of work due to an ailment and had to be confined first at Our Lady of Lourdes Hospital, then at the North General General Hospital where he finally succumbed on October 8, 1964 after undergoing surgical operation. Herein claimant-widow, as a result of the aforesaid illness and death of her husband, filed a claim for compensation as early as December 14, 1964. Upon the other hand, respondent only sent its letter controverting the claim on December 28, 1964. Clearly, there is no question that from October 8, 1964, when Francisco died, to December 28, 1964, when the notice of controversion was filed, there is a time gap which is certainly way beyond the period prescribed by Section 45 of the Act within which such controversion must be filed, which is either 14 days after disability or 10 days after knowledge of sickness or death." [4] It is worthwhile to state the other relevant facts for it would disclose that independently of the incurable infirmity arising from late controversion, the obduracy of petitioner employer finds no legal justification; the purpose of the Workmen's Compensation Act is not to be frustrated. Thus: "As narrated in the Acting Referee's decision now under consideration, the relevant facts of this case are follows: 'That the claimant was married to the deceased Bernardo Francisco on April 2, 1965 ***; that on July 16, 1949, deceased was employed as a collector of the

Advance Commercial Co.*** at the rate of P150.00 a month plus P25.00 per month as transportation allowance; that this firm was bought by the present respondent and renamed Regal Auto Works, Inc.; that the deceased's duties were to collect bills ' the customers of the respondent and in the performance thereof had to either ride or walk; that from July 28, 1964 to August 12, 1964, deceased was confined at the "Our Lady of Lourdes Hospital for severe hypertension *** caused by benign enlargement of the prostate plus bilateral atrophic pyelonephritis; that this confinement caused the [deceased] to spend the total sum of P908.25 ***; that on September, 17, 1964, deceased was operated on at the North General Hospital, secondary to perforation at the duodenum, (bleeding from a perforated ulcer of the first portion of the small intestine), broncho-pneumonia, minimal, bilateral ***; and that internment of the deceased claimant spent the sum of P423.50 ***.' After a careful study of the case, we find no reason to dispute the foregoing findings of facts, especially respondent, in its Motion for Reconsideration, never questioned this portion of the decision."[5]

Nothing would seem to be clearer, therefore, than that this petition for review is devoid of merit. With the above facts both on the issue of controversion as well as on the merits as found by respondent Commission which this Tribunal is not free to ignore or disregard, the conclusion is inescapable. There must be affirmance of the award. In *Victorias Milling Co., Inc. v. Workmen's Compensation Commission*, [6] it was categorically announced by this Court: "Failure to controvert amounts to a waiver or renunciation or forfeiture or loss of right of the defense that the claim for compensation was not filed within the statutory period. What is undeniable is that 'the failure to controvert is fatal to its defense of the claim having been filed out of time.'" [7] Thereafter, in *La Mallorca v. Workmen 's Compensation Commission*, [8] the same approach was manifested thus: "There is an even more formidable obstacle to the success of this petition to set aside the decision of the Workmen's Compensation Commission. As noted therein: 'Considering therefore that the injury sustained by the claimant arose out of and in the course of his employment and respondent company having failed to controvert the right of the claimant within the ten-day period prescribed in Section 45 of the Act, the compensability of the present claim, its reasonableness and validity, is now beyond challenge.' The absence of controversion is fatal to any defense that petition could interpose. So we have held in a host of decisions in compliance with the clear and express language of the Workmen's Compensation Act. Any assertion to the contrary is doomed to futility." [9]

WHEREFORE, the decision of respondent Workmen's Compensation Commission of May 15, 1968, as well as its resolution of August 15, 1968 denying a motion for reconsideration, are hereby affirmed. Costs against petitioner Regal Auto Works, Inc.

Barredo, Antonio, Aquino, and Martin, JJ., concur.

Concepcion Jr., J., is on official leave.

[1] Section 45 of Act No. 3428, as amended, insofar as pertinent, reads as follows: "The compensation herein provided for shall be periodically and promptly in like manner as wages, and as it accrues, and directly to the person or persons entitled thereto without the necessity of a formal award by the Commissioner, except in cases in which the right to compensation is controverted by the employer. If the employer or insurance carrier does not controvert the injured workman's right to compensation, such employer or insurance carrier shall, either on or before the fourteenth day after disability or within five days after the employer first has knowledge of the accident, begin paying compensation In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day after the disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him. that compensation is not being paid, giving the name of the claimant, name of the of the employer, date of the accident and the reason why compensation is not being paid."

[2] According to an order of the Workmen's Compensation Commission, inasmuch as the original claimant, Florencia Hernandez Francisco, died on November 24, 1967, and her surviving Augusta Hernandez, being the only sister in full blood, the right of the claimant to the compensation awarded had passed on to her estate represented by such surviving heir, Augusta Hernandez, who was therefore substituted in her place and is the private respondent before this Tribunal.

[3] Petition, Annex E, 2.

[4] Ibid, Annex G. 2.

[5] Ibid, 1-2.

[6] L-25665, May 22, 1969, 28 SCRA 285.

[7] Ibid. 292. Eleven cases were cited starting from Martha Lumber Mill v. Lagradante, 99 Phil. 434 (1956) to Victorias Milling Co. Inc. v. Workmen's Compensation Commission, L-25640, March 21, 1968, 22 SCRA 1215.

[8] L-29315. November 28, 1969, 30 SCRA 613.

[9] Ibid, 619-620. The opinion noted thirty decisions starting from Bachrach Motor Co. v. Workmen's Compensation Commission, 99 Phil. 238 (1956) to Northwest Orient Airlines, Inc. v. Workmen's Compensation Commission, L-25274, July 29, 1969. 28 SCRA 887. Therefore the following decisions may be added: Republic v. Workmen 's Compensation Commission, L-26763, December 26. 1969. 30 SCRA 811; Atlas Consolidated Mining and Development Corporation v. Workmen 's Compensation Commission, L-22439, May 29. 1970. 33 SCRA 132; Guardian Security and Investigation Agency v. Workmen 's Compensation Commission, L-26875. July 31. 1970, 34 SCRA 29; Camoies Shipping Corporation v. Otadoy, L-2769'9. Oct. 24, 1970, 35 SCRA 456; ALATCO Transportation Inc. v. Workmen's Compensation Commission, L-30548. Feb. 24, 1971, 37 SCRA 613; National Development Co. v. Galamgam, L-29634, April 29, 1971, 38 SCRA 495; General Textiles v. Taay, L-29348. Nov. 29. 1971, 42 SCRA 375; Development Bank of the Philippines v. Workmen's Compensation Commission, L-30428. Feb. 7, 1973. 49 SCRA 365; Philippine Graphic Arts v. Mariano, L-30979. Oct. 26, 1973. 53 SCRA 409; Abong v. Workmen's Compensation Commission, L-32347, Dec. 26. 1973. 54 SCRA 379.

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